



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 18, 2017

Corrected letter

RE: In the Matter of Samir Haddad, M.D.

Dear Parties:

Please substitute the cover letter dated 10/11/2017 with this letter.

Enclosed please find the Determination and Order (No. 17-297) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct
New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway - Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), (McKinney Supp. 2015) and §230-c subdivisions 1 through 5, (McKinney Supp. 2015), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Chief Administrative Law Judge
New York State Department of Health
Bureau of Adjudication
Riverview Center
150 Broadway – Suite 510
Albany, New York 12204

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's Determination and Order.

Sincerely,


James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: ISM
Enclosure



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

October 11, 2017

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Samir Haddad, M.D.
[REDACTED]

Anna Lewis
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, New York 10007

RE: In the Matter of Samir Haddad, M.D.

Dear Parties:

Enclosed please find the Determination and Order (No. 17-297) of the Professional Medical Conduct Administrative Review Board in the above referenced matter. This Determination and Order shall be deemed effective upon receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

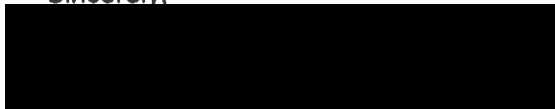
Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine **if said license has been revoked, annulled, suspended or surrendered**, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct
New York State Department of Health
Riverview Center
150 Broadway – Suite 355
Albany, New York 12204

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

This exhausts all administrative remedies in this matter [PHL §230-c(5)].

Sincerely,

A large black rectangular redaction box covering the signature of James F. Horan.

James F. Horan
Chief Administrative Law Judge
Bureau of Adjudication

JFH: ISM
Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

-----X

**IN THE MATTER
OF
SAMIR HADDAD, M.D.**

**DETERMINATION
AND
ORDER**

-----X

17-297

The New York State Department of Health ("Department") charged Samir Haddad, M.D. ("Respondent"), with professional misconduct. On May 19, 2017, a hearing was held in New York, New York. Administrative Law Judge Jankhana Desai presided over the hearing. Steven I. Sherman, D.O., Chairperson, Elisa Wu, M.D., and Deborah Whitfield, M.A., Ph.D., duly designated members of the Board for Professional Medical Conduct ("BPMC"), served as the Hearing Committee ("Committee"), pursuant to New York State Public Health Law ("PHL") § 230 (10) (e).

The Department appeared by Anna Lewis, Associate Counsel for the Bureau of Professional Medical Conduct. Respondent represented himself. Evidence was received and a transcript of the proceeding was made. The Committee held deliberations on August 4, 2017 and October 4, 2017. The record closed on October 4, 2017. Both parties submitted closing briefs. After consideration of the entire record, the Committee issues this Determination and Order.

HEARING RECORD

Hearing Date: May 19, 2017
Department's Witness: April Soltren, Senior Medical Conduct Investigator
Respondent's Witness: Respondent Samir Haddad, M.D.
Hearing Transcript: Pages 1-245
Deliberations Held: August 4, 2017 and October 4, 2017
Department's Exhibits: 1 through 15¹
Respondent's Exhibits: A through I²

BACKGROUND

This case was brought pursuant to PHL § 230. Respondent was charged with five specifications of professional misconduct, as defined in § 6530 of the New York State Education Law ("Education Law"), including § 6530 (29), violating any term of probation or condition or limitation imposed on the licensee pursuant to PHL § 230. Each of the five specifications of misconduct is predicated upon factual allegations in the Statement of Charges.

FINDINGS OF FACT

The Committee made the following findings of fact unanimously.

1. On April 30, 2001, Respondent was authorized to practice medicine in New York State, by the issuance of license number 220993, by the New York State Education Department ("Education Department").

¹ Exhibit 15 is the Department's post-hearing brief.

² Exhibit I is Respondent's post-hearing brief and submission collectively.

2. Pursuant to a BPMC Consent Agreement and Order #09-231 ("Order"), which was signed by Respondent on December 14, 2009 and effective on January 6, 2010, Respondent's license to practice medicine was suspended for 36 months, with the first three months to be served as a period of actual suspension and with the last 33 months stayed, and probation for 36 months beginning after the period of actual suspension. (Exhibits 2, 14.)

3. The Order imposed a permanent limitation on Respondent's license: to preclude him from, either individually or through a professional corporation, evaluating, treating or billing patients whose medical services are reimbursed through No-Fault insurance or Workers' Compensation. (Exhibit 2.)

4. The Order required Respondent to pay a \$10,000 fine. (Exhibit 2.) Respondent violated the Order by paying only a partial sum of \$4,000. (Exhibit 5; Transcript, p. 24-25, 69.)

5. The Order required Respondent to practice medicine only when overseen by a practice monitor proposed by Respondent and approved by the Director of Office of Professional Medical Conduct ("OPMC"). (Exhibit 2.) Respondent violated this term of probation when he practiced medicine from June 9, 2010 to December 5, 2014, without oversight by an approved practice monitor. (Exhibits 3, 4, 9, 9A, 9B, 9C, 11; Transcript, p. 22.)

6. The Order required Respondent to maintain medical malpractice insurance coverage with limits of no less than \$2 million per occurrence and \$6 million per policy year, in accordance with PHL § 230 (18)(b). (Exhibit 2.) Respondent violated this term of probation when he practiced medicine from June 13, 2010 to April 5, 2011 and from April 7, 2012 to December 5, 2014, without having the required malpractice insurance coverage. (Exhibits 3, 4, 7, 9, 9A, 9B, 9C, 11; Transcript, p. 32-33, 56.)

7. Evidence of Respondent's practice of medicine includes: (1) Respondent wrote hundreds of prescriptions from June 9, 2010 to August 20, 2014 (Exhibits 3, 4, 11; Transcript p. 42.). (2) Respondent submitted medical records of patients he treated in 2011 and 2014. (Exhibits 9, 9A, 9B, 9C.). (3) Respondent admitted to treating patients between 2012 and 2014. (Transcript, p. 115, 143-45.)

8. The Order required Respondent to complete, within the first 90 days of the probation period, a continuing medical education ("CME") program as directed by the Director of the OPMC. (Exhibit 2.) Respondent violated this term of probation when he failed to complete the said CME course. (Exhibit 8; Transcript p. 35-36.)

VOTE OF THE COMMITTEE

FIRST SPECIFICATION: DISMISSED

The Committee unanimously dismissed the first charge alleging that Respondent committed professional misconduct as defined in Educ. Law § 6530(29), by violating any term of probation or condition or limitation imposed on Respondent pursuant to PHL § 230.

Vote: Dismissed (3-0).

This specification was based on Respondent's alleged failure to comply with the permanent limitation imposed on his license precluding him from evaluating, treating or billing patients whose medical services are reimbursed through No-Fault insurance or Workers' Compensation by allegedly treating patients whose medical services were billed to Worker's Compensation on February 19, 2011, August 13, 2011, and December 10, 2013. The Committee found that the Department failed to offer evidence supporting this charge.

SECOND SPECIFICATION: SUSTAINED

The Committee unanimously sustained the second charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(29), by violating any term of probation or condition or limitation imposed on Respondent pursuant to PHL § 230.

Vote: Sustained (3-0).

This specification was based on Respondent's failure to pay the entirety of the \$10,000 fine. (See Factual Finding 4.) At hearing, Respondent unpersuasively testified that he believed that his office manager had paid the fine in full. (Transcript, p. 102-03, 137-38.) The last payment Respondent made towards the fine was in September 2010. (Exhibit 5; Transcript, p. 158.)

THIRD SPECIFICATION: SUSTAINED

The Committee unanimously sustained the third charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(29), by violating any term of probation or condition or limitation imposed on Respondent pursuant to PHL § 230.

Vote: Sustained (3-0).

This specification was based on Respondent's practice of medicine without oversight by an approved practice monitor. Respondent had proposed Dr. Frederic Anthony Mendelsohn and Dr. Reema Maindiratta to be practice monitors. Respondent testified that he believed that Dr. Maindiratta was approved. (Transcript, p. 108-109.) However, the Board did not approve either physician. (Transcript, p. 28-30, 39.) Respondent violated this term of probation when he practiced medicine from June 9, 2010 to December 5, 2014, without oversight by an approved practice monitor, as evidenced by the prescriptions he wrote, patients' medical records, and his own admission regarding his treating patients. (See Factual Finding 5, 7.)

FOURTH SPECIFICATION: SUSTAINED

The Committee unanimously sustained the fourth charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(29), by violating any term of probation or condition or limitation imposed on Respondent pursuant to PHL § 230.

Vote: Sustained (3-0).

This specification was based on Respondent's practice of medicine without the required malpractice insurance coverage. Under PHL § 230 (18)(b), a monitored licensee is required to maintain medical malpractice insurance coverage with limits of no less than \$2 million per occurrence and \$6 million per policy year. Although Respondent possessed the necessary malpractice insurance at certain times, there were breaks in his coverage from June 13, 2010 to April 15, 2011 and from April 17, 2011 to December 5, 2014. (See Factual Findings 6, 7.) At hearing, Respondent admitted to not having the requisite medical insurance and unconvincingly testified that his office manager stopped paying his malpractice insurance without his knowledge. (Transcript, p. 102-105, 156-57.) He also explained that he could not pay for the cost of the malpractice insurance at times due to financial hardship. (Transcript, p. 45, 53, 104, 114-15, 117, 130-31, 155.)

FIFTH SPECIFICATION: SUSTAINED

The Committee unanimously sustained the fifth charge that Respondent committed professional misconduct as defined in Educ. Law § 6530(29), by violating any term of probation or condition or limitation imposed on Respondent pursuant to PHL § 230.

Vote: Sustained (3-0).

This specification was based on Respondent's failure to complete the CME course within the first 90 days of his probationary period. Moreover, at the time of the hearing, a time seven

years after the issuance of the Order, this requirement remains unfulfilled. Respondent was unable to provide satisfactory justification for his failure to comply with this probation condition. (Transcript, p. 34-36, 163-65.)

PENALTY DETERMINATION

Respondent was charged with five specifications of professional misconduct, as defined in § 6530 of the Education Law. The Committee sustained four of the five specifications. The Committee considered the full spectrum of penalties available by statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

The Committee concluded that the appropriate penalty is 15 months license suspension, followed by 40 months of probation. Probationary terms and conditions include 24 months with a Board approved practice monitor, maintaining malpractice insurance as required by PHL 230(18)(b), 30 hours of CME, a medical ethics course, payment of the remaining \$6,000 in fines, and a permanent license restriction precluding Respondent from, either individually or through a professional corporation, evaluating, treating or billing patients whose medical services are reimbursed through No-Fault insurance or Workers' Compensation.

The Committee made this determination on several factors. The Committee found that revocation would be too extreme of a penalty, noting that no evidence was offered questioning Respondent's competence as a physician and further, that there was no evidence of patient harm. The Committee recognized that financial hardship might have been a factor in Respondent's lack of compliance with portions of the Order. The Committee also found that Respondent might have legitimately believed that the Board approved one of his proposed practice monitors, even though it had not.

Despite these mitigating factors, Respondent had ample time opportunity to comply with the Order, but never did. The failure to comply with the Order in the past seven years remains largely unexplained. Although the Committee recognized that financial hardship may have contributed to some failures of compliance, the Committee observed that Respondent failed to comply with portions of the Order that were independent of financial ability. Under these circumstances, the Committee found suspension, followed by probation with terms and conditions to be the appropriate penalty.

ORDER

IT IS HEREBY ORDERED THAT:

1. The first specification of professional misconduct, as set forth in the Statement of Charges, is **DISMISSED**.
2. The second through fifth specifications of professional misconduct, as set forth in the Statement of Charges, are **SUSTAINED**.
3. **Suspension:** Respondent's medical license shall be suspended for 15 months.
4. **Probation:** After the 15 months of suspension, Respondent shall be placed on probation for a period of 40 months according to terms and conditions in the attached Appendix A.
5. **Practice Monitor:** Prior to the commencement of the 40-month probationary period, Respondent must have a Board approved practice monitor in place. Respondent shall be overseen by a Board approved practice monitor for a period of 24 months.
6. **Malpractice Insurance:** During the 24 months that Respondent will be overseen by a practice monitor, pursuant to the requirements of PHL 230(18)(b), Respondent shall maintain medical malpractice insurance coverage with limits of no less than \$2 million per occurrence and \$6 million per policy year.
7. **Continuing Medical Education:** Respondent must complete, to the satisfaction of the Director of the OPMC, a medical ethics course and 30 hours of CME.
8. **Fines:** Respondent must pay the \$6,000 he owes in fines, to be paid in six monthly installments of \$1,000 each, starting within 30 days of the effective date of this Order.
9. **Permanent License Limitation:** Respondent is permanently precluded from, either individually or through a professional corporation, evaluating, treating, or billing patients whose medical services are reimbursed through No-Fault insurance or Workers' Compensation.
10. This Determination and Order shall be effective upon service on the Respondent by personal service or by registered or certified mail as required by PHL 230(10)(h).

DATED: October 12, 2017


Steven I. Sherman, D.O., Chair

Elisa Wu, M.D.
Deborah Whitfield, M.A., Ph.D.

APPENDIX A

Terms of Probation

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.

2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Albany, New York 12204; said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within 30 days of each action.

3. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.

4. Respondent shall be placed on probation for a period of 40 months. The period of probation shall begin upon Respondent's completion of a 15-month license suspension. The period of probation will be tolled during periods in which Respondent is not engaged in the active practice of medicine in New York State. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, the active practice of medicine in New York State for a period of thirty (30) consecutive days or more. Respondent shall then notify the Director again prior to any change in that status. The period of probation shall resume and any terms of probation which were not fulfilled shall be fulfilled upon Respondent's return to practice in New York State.

5. Respondent shall enroll in and complete 30 hours of Continuing Medical Education, as approved by the Director of the OPMC. This CME program is subject to the Director of the OPMC's prior written approval and shall be completed before the first 90 days of the probation.

6. Respondent shall complete a medical ethics course, as approved by the Director of the OPMC.

7. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty ("practice monitor") proposed by Respondent and subject to the written approval of the Director of the OPMC for a period of 24 months. Prior to the commencement of Respondent's 40-month probationary period, Respondent must have a Board approved practice monitor. If Respondent does not have a Board approved practice monitor prior to the commencement of the 40-month probationary period, the suspension will continue and the period of probation will be tolled. Respondent shall be overseen by a Board approved practice

monitor for a period of 24 months. Any medical practice in violation of this term shall constitute the unauthorized practice of medicine.

- a. Respondent shall make available to the practice monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent. The review will determine whether Respondent's medical practice is conducted in accordance with generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the practice monitor shall be reported by the practice monitor within 24 hours to OPMC.
- b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c. Respondent shall ensure that the practice monitor reports quarterly, in writing, to the Director of the OPMC.
- d. Respondent shall maintain medical malpractice insurance coverage with limits of no less than \$2 million per occurrence and \$6 million per policy year, in accordance with PHL 230(18)(b). Proof of coverage shall be submitted to the Director of the OPMC prior to Respondent's practice after the effective date of this Order.

8. Respondent must pay the \$6,000 he owes in fines to be paid in six monthly installments of \$1,000 each commencing within 30 days of the effective date of this Order. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses.

9. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by state rules and regulations concerning controlled substances.

10. Respondent shall comply with these Terms of Probation, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with these terms, the Director of OPMC and/or the Board for Professional Medical Conduct may initiate a violation of probation proceeding, and/or any other proceeding authorized by law, against Respondent.

To:

Samir Haddad, M.D.



Anna Lewis
Associate Counsel
Bureau of Professional Medical Conduct
90 Church Street, 4th Floor
New York, NY 10007

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
SAMIR HADDAD, M.D.

STATEMENT
OF
CHARGES

SAMIR HADDAD, M.D., the Respondent, was authorized to practice medicine in New York State on or about April 30, 2001, by the issuance of license number 220993 by the New York State Education Department.

FACTUAL ALLEGATIONS

A. Respondent is currently subject to BPMC Consent Agreement and Order #09-231 ("Order") which was issued by the State Board for Professional Medical Conduct, on December 31, 2009, effective January 7, 2010 (The Order is attached as Appendix "A"). The Order suspended Respondent's license for thirty-six months, with the first three months to be served as a period of actual suspension and with the last thirty-three months stayed, and probation for thirty-six months beginning after the period of actual suspension.

B. The Order imposed a permanent limitation on Respondent's license: to preclude him from, either individually or through a professional corporation, evaluating, treating or billing patients whose medical services are reimbursed through No-Fault insurance or Worker's Compensation.

1. Respondent violated the Order when he failed to comply with the permanent limitation imposed on his license, when he treated patients whose medical services were billed to Worker's Compensation on February 19, 2011, August 13, 2011 and December 10, 2013.

C. The Order required Respondent to pay a "... fine in the amount of \$10,000 to be paid in ten monthly installments of \$1,000 each commencing within 30 days of the effective date of this Order."

1. Respondent violated the Order when he failed to pay the entirety of the \$10,000 fine, in that he only paid \$4,000.

D. Probation term #9 imposed pursuant to BPMC Order #09-231 required that "Respondent shall practice only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to written approval by the Director of OPMC." An approved practice monitor was required to be in place prior to Respondent's return to practice.

1. Respondent violated this term of probation when he engaged in the practice of medicine from June 9, 2010 to ^{December 5} August 20, 2014, without having an approved practice monitor in place.

E. Probation term #9d, imposed pursuant to BPMC Order #09-231 required that "Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order."

1. Respondent violated this term of probation when he engaged in the practice of medicine, from ^{*}June 9, 2010 to August 20, 2014, without having the required malpractice insurance coverage limits.

* from June 13, 2010
to April 5, 2011 and
from April 17, 2012 to December 5, 2014

F. Probation term #11, imposed pursuant to disciplinary BPMC Order # 09-231 required that "Respondent shall enroll in and complete a continuing medical education program as directed by the Director of OPMC. This continuing education program is

thus subject to the Director of OPMC's prior-written approval and shall be completed within the first 90 days of the probation period."

1. Respondent violated this term of probation when he failed to complete a continuing medical education course as directed by the Director of OPMC, within the first ninety (90) days of his probationary period.

SPECIFICATION OF CHARGES

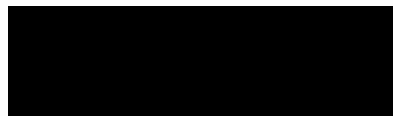
FIVE SPECIFICATIONS

VIOLATING ANY TERM OF PROBATION OR CONDITION OR LIMITATION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(29) by violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law, as alleged in the facts of the following:

1. Paragraphs A. and B. and B.1.
2. Paragraphs A. and C. and C.1.
3. Paragraphs A. and D and D.1.
4. Paragraphs A. and E. and E.1.
5. Paragraphs A and F. and F1.

DATE: February 18, 2017
New York, New York



Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct